

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re Patent Application of

BEAN et al.

Atty. Ref.: 3638-116 (AMK)

Serial No. 10/786,158

TC/A.U.: 3634

Filed: February 26, 2004

Examiner: A. Chin Shue

For: LIFT VEHICLE WITH MULTIPLE CAPACITY ENVELOPE
CONTROL SYSTEM AND METHOD

* * * * *

August 10, 2009

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY BRIEF

In reply to the Examiner's Answer dated June 9, 2009, Appellants submit this
Reply Brief under 37 C.F.R. §41.41.

In the "Response to Argument" section in the Examiner's Answer, with regard to the claimed "controller," Appellants do not disagree that the JLG 1350SJP or the system disclosed in BP '833 includes a controller; rather, Appellants submit that the controllers in the references of record do not meet the claimed control system that communicates with a selector switch and a plurality of sensors. In the claimed invention, the control system receives output from the plurality of sensors to determine in which position zone the platform is located. The controller in BP '833 does not serve to determine a position zone based on output from sensors. Additionally, the controller in BP '833 does not

serve to control a predefined envelope of the platform. The platform envelope in BP ‘833 is rather controlled by physical contact of the boom structure with cams, switches and the like. The JLG 1350SJP controller similarly does not determine a boom position from different combinations of discrete boom switches, but rather communicates with the more expensive boom sensors described with reference to the prior art in the Background section of the present specification.

With regard to claim 5, the Examiner’s Answer does not appreciate the claimed plurality of sensors to create a plurality of angle and length regions. These are not characteristics of either the JLG 1350SJP or the BP ‘833 device.

With regard to claim 8, unlike the claimed system, the BP ‘833 limit switches LS-1 and LS-2 are discrete switches used for a dedicated purpose. That is, as discussed previously, limit switch LS-1 serves to limit the maximum extension of the inner boom section 32, and limit switch LS-2 serves to limit the maximum retraction of the inner boom section with respect to the outer boom section.

With regard to claim 11, a control system configured to control a position of the selector switch according to a sensed load on the platform is not part of the JLG 1350SJP or any other known system. The Examiner’s “assumption” that the claimed dual capacity control system is the same as that of the JLG 1350SJP is inaccurate. Nothing in the JLG 1350SJP brochure even remotely suggests that the load selection is determined via sensing a load on the platform. Appellants submit that this conclusion in the Examiner’s Answer is overreaching and is without basis.

The Examiner's Answer additionally contends that "Appellant had not disclosed any detail of his claimed dual capacity control system." To the contrary, however, details of the dual capacity control system with regard to sensing a load on the platform are described in the specification at, for example, paragraph [0031].

For the reasons discussed herein and in the Appeal Brief, reversal of the rejections is respectfully requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Alan M. Kagen/
 Alan M. Kagen
 Reg. No. 36,178

AMK:jls
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100